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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,693	07/27/2006	Sylvain Tillon	1325-7 PCT/US	7039
23869	7590	12/23/2008	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791				DOAN, ROBYN KIEU
ART UNIT		PAPER NUMBER		
3732				
MAIL DATE		DELIVERY MODE		
12/23/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/587,693	TILLON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robyn Doan	3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2006.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 July 2006 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/27/06</u> .   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Regarding claims 3, 4, 12, 13, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 13 recites the limitation "said loop" in line 5. There is insufficient antecedent basis for this limitation in the claim.

In claims 1-11, there exist an inconsistency in the claims thus making this scope unclear. Claim 1 recite a tool for positioning an ornamental into the hair with a ornamental being only functionally recited, i.e. "designed to cooperate with an ornament" and thus indicating that the claims are directed to the subcombination, an ornamental threader. However, the body of the claim positively recites the ornament as part of the invention ( for example, claim 1, line 5 positively recited a support), thus indicating that the combination of the ornament and the tool for positioning the ornament is being claimed. As such, it is unclear whether applicant intended the claims to be directed to the subcombination, the tool for positioning the ornament, or the combination, the ornament and the tool for positioning the ornament. Applicant is hereby required to indicate whether the claims are intended to be drawn to the subcombination only or the combination and amend the claims to make the language thereof consistent with this intent. For examination purposes, the claims will be considered as drawn to the combination of the ornament and the tool for positioning the ornament.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Pigford et al (IDS cited reference).

Pigford et al discloses a device for positioning an ornamental element into the hair (figs. 1-4) comprising a fine spring steel loop (metal 10) whose both ends are joined together (at 12 and at 10), one end with a crimp (14) and the other end being pointed (at 12), wherein the crimp inherently having a coaxial channel into which two ends of the loop are introduced (see fig. 4); the device is designed to cooperate with an ornament (22); the ornament further having a support (body of the ornament). Applicant is noted that since the term "support" does not have a structural limitation, therefore, it is proper to refer the body of the ornament as a support member.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 8-10, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pigford et al.

With regard to claims 3, 4, 9, 10 and 12, Pigford et al as discussed above discloses a device for positioning an ornamental element into the hair (figs. 1-4) and a

method of positioning ornaments in the hair (col. 2, lines 10-25) except for the loop having two semi-rigid branches, the support being a silicone sheath and the crimp being made of plastic material. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the loop having two semi-rigid branches and the support being a silicone sheath and the crimp being made of plastic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claims 2, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pigford et al in view of Morkenborg (USP 7,316,130).

Pigford et al discloses the essential claimed invention except for the ornament being a semi-spherical masses and the support having a body with means that allows pinching of the support onto the branches of the loop. Morkenborg discloses an ornamental (fig. 2) inherently can be used for styling the hair comprising an ornament in a semi-spherical shape (24a, fig. 3) removably attached to its support (2), wherein the support having a means (3) which allows pinching of the support onto a chain (9). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify the ornament of Pigford et al with the ornament as taught by Morkenborg in order to provide a simple attachment or detachment of the ornament to the support.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Samoilov, Feld, Lefkowitz are cited to show the state of the art with respect to a threader and an interchangeable ornament.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (571) 272-4711. The examiner can normally be reached on Mon-Fri 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robyn Doan/  
Primary Examiner, Art Unit 3732